

Sumter City-County Board of Appeals

August 11, 2010

BOA-10-21, 325 W. Liberty St. (City)

I. THE REQUEST

Applicant: O & O Associates (Cedars Medical Clinic)

Status of the Applicant: Property Owners

Request: A variance of two (2) parking spaces from the required number of parking spaces for a doctor's office per Article 8, Exhibit 23 in order to allow an addition to an existing medical building.

Location: 325 W. Liberty St.

Present Use/Zoning: Undeveloped Land & Cedars Medical Clinic/General Commercial, Highway Corridor Protection District (GC/HCPD)

Tax Map Reference: 228-12-01-039

II. BACKGROUND

The applicant is requesting a variance from the required number of off-street parking spaces in order to construct a two-story addition at the Cedars Medical Clinic located at 325 W. Liberty St.

The proposed addition will be 4,200 sq. ft. on the first floor for patient exam rooms and a sleep clinic and a 925 sq. ft. addition on the second floor to serve as private offices for the doctors in the practice. The current structure has 4,200

sq. ft. of floor area with an established 37 parking spaces. Based on Exhibit 23 of the Zoning & Development Standards Ordinance, doctors offices and clinics are required to have 2 parking spaces per bed or 1 space for every 150 sq. ft. of GFA (gross floor area) whichever is greater. In this instance, parking is calculated using 1 space for every 150 sq. ft. GFA.



Cedars Medical Clinic began initial construction planning and development in 2003 with final completion in 2004. On August 13, 2003 a rear setback variance was granted by the Board of Appeals, reducing the required setback from 50 ft. to 20 ft. At that time no other development variances were granted. In 2006 additional parking and landscaping was added to the site with no other major construction.

[illegible]

The photographs and Orthophotography on the following page show the existing site and trees on the western side of the parcel.



*Above left: 36" DBH tree; Above right: 32" DBH Tree
Below: Aerial view of site as developed today.*



In accordance with the 2030 Comprehensive Plan and the Zoning Ordinance, preservation and protection of natural resources, such as large established trees through the use of conservation design and tree protection measures is encouraged. In the Zoning Ordinance in particular, tree

protection is addressed in *Section 8.d.3*. As per this section of the Ordinance, a tree protection plan is required as part of site plan submission along with a landscaping plan.

The purpose and intent of a tree protection plan is to identify “Significant Trees” that will be protected where feasible. That feasibility may include small site adjustments, saving additional trees outside the construction area, or having a landscape plan that replaces “Significant Trees” that must be removed to allow construction. Historic and significant trees are any trees within the City of Sumter or the unincorporated areas of Sumter County which are known in local legend or lore; or are known by a popular name; or have a diameter at breast height (DBH) of thirty (30”) inches or more. Significant site adjustments may be required to protect and preserve “Historic Trees” that are found to be healthy and viable.

In this instance, the 36” Pecan tree is considered to be historic and should be protected, given the proposed site development that accommodates for the preservation of the largest tree on site, the maximum number of ordinance compliant parking spaces cannot be reached in the space available.

III. THE REQUEST

The applicant is seeking variances from the required number of parking spaces in order to preserve a 36” Pecan tree situated in the proposed new parking area. Because of the presence of the tree and the proposed building size, a variance must be granted on the number of parking spaces in order to develop the site as proposed.

In order for the Board of Appeals to grant a variance from the Zoning Ordinance, the proposed variance request must meet all four-parts of a State mandated four-part test. When reviewing a variance request, the Board may not grant a variance that would do the following:

- Allow the establishment of a use not otherwise permitted in a zoning district;
- Extend physically a nonconforming use of land;
- Change zoning district boundaries shown on the Sumter City-County Official Zoning Map.

The fact that a property may be utilized more profitably should a variance be granted shall not be considered grounds for approving a variance request.

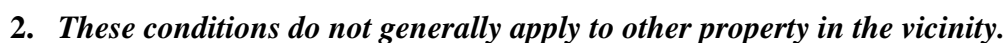
IV. FOUR-PART TEST

1. *There are extraordinary and exceptional conditions pertaining to the particular piece of property.*

There are extraordinary or exceptional conditions pertaining to this particular piece of property based on the following:

- The +/-1.15 acre parcel is the site of four (4) significant and two (2) historic trees. The only remaining developable area is in the vicinity of the two historic trees. In order to fully use the site, a conservation design approach must be used or both

- As shown in the graphic below, because of the orientation of the existing structure, shown in tan, and the established parking area to the east of the parcel, the logical location for facility expansion is to the west of the building. The proposed addition will necessitate removal of the second largest tree on site.



- Other properties in the vicinity of this site are much smaller in size and do not have the development challenges imposed by the presence of historic trees. Additionally, because adjacent parcels are being used for retail or professional office purposes, those sites are not required to have the sheer number of parking spaces that a medical office must provide. Doctor's offices have the second most intense parking requirement next to restaurants resulting in a much larger required number of parking spaces than a traditional retail service or professional office such as that for an accountant or engineer.

3. *Because of these conditions, the application of the ordinance to the particular piece of property would effectively prohibit or unreasonably restrict the utilization of the property.*

Absolute application of the ordinance requirement ***will prohibit*** or unreasonably restrict the utilization of this property due to the following:

- Preservation of green infrastructure and tree protection are priorities in both the 2030 Comprehensive Plan and the Zoning Ordinance. In this situation, tree protection diminishes available developable area available for parking. Without a variance from the number of required spaces, the site cannot be developed as proposed.
- 4. *The authorization of a variance will not be of substantial detriment to adjacent property or to the public good, and the granting of the variance will not harm the character of the district.***
- Authorization of this variance will not be of substantial detriment to the adjacent property or to the public good. In fact, granting the variance will allow for the preservation of an historic tree in the Liberty St. streetscape. This variance is similar to the variance request heard for BOA-10-08 for Sumter Pediatrics in that in granting the variance on the number of parking spaces will allow the retention of an historic tree while allowing for the expansion of an established, commercially viable medical practice.

V. STAFF RECOMMENDATION

Based on satisfying the four-part test, Staff recommends approval of BOA-10-21.

VI. DRAFT MOTIONS for BOA-10-21

- A. I move that the Sumter Board of Appeals approve BOA-10-21 subject to the findings of fact and conclusions contained in the draft order dated August 11, 2010 attached as Exhibit 1.
- B. I move that the Sumter Board of Appeals deny BOA-10-21 on the following findings of fact and conclusions:

VII. ZONING BOARD OF APPEALS – August 11, 2010

The Sumter City-County Board of Appeals at its meeting on Wednesday, August 11, 2010, voted to approve this request subject to the findings of fact and conclusions contained in the draft order dated August 11, 2010.

Exhibit 1
Order on Variance Application
Sumter Board of Appeals

BOA-10-21, 325 W. Liberty St. (City)
August 11, 2010

Date Filed: August 11, 2010

Permit Case No. BOA-10-21

The Board of Zoning Appeals held a public hearing on Wednesday, August 11, 2010 to consider the request of O & O Associates, P.O. Box 519, Sumter SC 29151 for a variance from the strict application of the Zoning Ordinance as set forth on the Form 3 affecting the property described on Form 1 filed herein. After consideration of the evidence and arguments presented, the Board makes the following findings of fact and conclusions.

1. The Board concludes that the Applicant ☒ **has** - ☐ **does not have** an unnecessary hardship because there are extraordinary and exceptional conditions pertaining to the particular piece of property based on the following findings of fact:

The +/-1.15 acre parcel is the site four (4) significant and two (2) historic trees. The only remaining developable area is in the vicinity of the two historic trees. In order to fully use the site a conservation design approach must be used or both trees must be removed. Through using a conservation design approach that protects the largest tree on site, the developable area for parking is diminished.

2. The Board concludes that these conditions ☐ **do** - ☒ **do not** generally apply to other property in the vicinity based on the following findings of fact:

Other properties in the vicinity of this site are much smaller in size and do not have the development challenges imposed by the presence of historic trees. Additionally, because adjacent parcels are being used for retail or professional office purposes, those sites are not required to have the sheer number of parking spaces that a medical office must provide. Doctor's offices have the second most intense parking requirement next to restaurants resulting in a much larger required number of parking spaces than a traditional retail service or professional office such as that for an accountant or engineer.

3. The Board concludes that because of these conditions, the application of the ordinance to the particular piece of property ☒ **would** - ☐ **would not** effectively prohibit or unreasonable restrict the utilization of the property based on the following findings of fact:

Preservation of green infrastructure and tree protection are priorities in both the 2030 Comprehensive Plan and the Zoning Ordinance. Parking is a requirement of the ordinance and therefore must be complied with. Because parking is calculated according to the proposed use, increases in floor area for a given use impact the required number of

spaces. The presence of the protected historic tree in the middle of the proposed parking area diminishes the developable space available necessary for the two additional parking spaces. In this situation a requirement of the Ordinance, tree protection, diminishes available developable area available for parking.

4. The Board concludes that authorization of the variance ☐will –☒will not be of substantial detriment to adjacent property or to the public good, and the character of the district ☐will - ☒will not be harmed by the granting of the variance based on the following findings of fact:

Authorization of this variance will not be of substantial detriment to the adjacent property or to the public good. In fact, granting the variance will allow for the preservation of an historic tree in the Liberty St. streetscape. This variance is similar to the variances previously granted by the Board that allow for the retention of an historic tree while allowing for the expansion of an established, commercially viable medical practice.

THE BOARD, THEREFORE, ORDERS that the variance is ☐ DENIED –☒ GRANTED, subject to the following conditions:

Approved by the Board by majority vote.

Date issued: _____

Chairman

Date mailed to parties in interest: _____

Secretary

Notice of appeal to Circuit Court must be filed within 30 days after date this Order was mailed.